



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,544	04/15/2004	Yutaka Nagao	251896US6	6525

22850 7590 05/04/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

WORJLOH, JALATEE

ART UNIT	PAPER NUMBER
----------	--------------

3685

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

05/04/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

Office Action Summary	Application No. 10/824,544	Applicant(s) NAGAO, YUTAKA	
	Examiner Jalatee Worjloh	Art Unit 3685	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9 and 11-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-9 and 11-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 31, 2009 has been entered.

2. Claims 1, 3-9, and 11-16 are pending.

Response to Arguments

3. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-8, 9, 11-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 1 and 15 recite "a license processing unit configured to...combine the first license information and the second license information based on the determination of whether the second license information is the add attribute or overwrite attribute", which is unclear. If it is determined that the second license information is an overwrite attribute, why will the first and second license information be combined instead of overwritten?

Art Unit: 3685

7. As per claim 9, it is unclear where the first license information and the licensed information obtained by the combining step are stored.

8. Claim 9 recites "combining a part or all of said second license information with the first license information on the basis of a result of the determining", which is unclear. If it is determined that the second license information is an overwrite attribute, why will the first and second license information be combined instead of overwritten?

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1, 4, 6-9, and 11-16 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Publication No. 2003/0005135 to Inoue et al. ("Inoue").

Referring to claim 1, Inoue discloses a storage unit configured to store first license information corresponding to the content information, the first license information including a first usage condition (abstract – a right management server that has a content usage right database that stores rights information indicating a usage rule of a content for each terminal ID or user ID & Fig. 5, 6 and paragraph [0113] - usage period (first license information)), a receiving unit configured to receive second license information corresponding to the content information from a license server, the second license information including a second usage condition (usage time/desired usage number) and usage right type information (see paragraphs [0116] -the child

Art Unit: 3685

terminal inputs her desired usage number or usage time & [0118] - the license ticket generation unit sends a license ticket, which includes the usage number or usage time to the child terminal), a license processing unit configured to determine whether the second license information is of an add attribute or an overwrite attribute based on the usage right type information included in the second license information (see paragraph [0117] – the license ticket request which includes the second license information is received and the rights content database is searched based on the information received in the request) and to combine the first license information and the second license information based on the determination of whether the second license information is of the add attribute or the overwrite attribute, wherein the content information is operated according to license information obtained by combining the first license information and the second license information and the storage unit is configured to store the license information obtained by combining the first license information and the second license information (see paragraph [0117] & [0119]).

Referring to claim 4, Inoue discloses the apparatus wherein, when the second license information is determined to be of the add attribute, the license processing unit is configured to add a part or all of the second license information to the first license information (see paragraphs [0117] & [0119]).

Claims 6-8, 11, and 12-14 are rejected on the same rationale as claim 4 above.

Claim 9 is rejected on the same rationale as claim 1 above.

Referring to claim 16, Inoue discloses the apparatus wherein the first license information and the second license information have the same data structure, and include the same plurality of types of information (see fig. 4).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue as applied to claim 1 above.

Referring to claim 3, Inoue discloses overwriting license information (see paragraph [00117]). As for overwriting the first license information with the second license information this is considered nonfunctional descriptive material. The overwriting step would be performed the same regardless of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to overwrite information with any type of content because of the subjective interpretation of the data does not patentably distinguish the claimed invention.

13. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue as applied to claim 1 above, and further in view of US Patent No. 7127431 to Kambayashi et al. ("Kambayashi").

Inoue discloses the apparatus wherein, when the second license information is determined to be the add attribute, the license processing unit is configured to add a part or all of the second license information to the first license information (see paragraphs [0117] & [0119]). Inoue does

Art Unit: 3685

not expressly disclose wherein, by use of key information unique to said information processing apparatus, and electronic signature is appended to the license information obtained by combining the first license information and the second license information by the license processing unit. Kambayashi discloses adding digital signatures to license information (see Fig. 1 & associated text). At the time the invention was made it would have been obvious to one of ordinary skill in the art to modify the license information of Inoue to include digital signatures because the simple substitution of known element for another producing a predictable result renders the claim obvious.

Conclusion

14. As per claim 1, the wherein clause merely expresses an intended results; therefore, it does not limit the claim and is not given patentable weight (see MPEP 2111.04).

15. As per claims 3, 4, 6-8, although the conditional elements have been considered, Applicant is reminded that optional or conditional elements do not narrow the claims because they can always be omitted. See MPEP §2106 II. C: "Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. [Emphasis in original.]"

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jalatee Worjloh whose telephone number is 571-272-6714. The examiner can normally be reached on Monday - Friday 10:00 - 6:30.

Art Unit: 3685

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin Hewitt II can be reached on 571-272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for regular communications and 571-273-6714 for Non-Official /Draft.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jalatee Worjloh/
Primary Examiner, Art Unit 3685